TESTIMONY OF CLIFFORD LYLE MARSHALL
CHAIRMAN, HOOPA VALLEY TRIBE OF CALIFORNIA
BEFORE THE
SENATE INDIAN AFFAIRS COMMITTEE
August 1, 2002

Mr. Chairman and Members of this Committee, I am Clifford Lyle Marshall, Chairman of the Hoopa Valley Tribe of California. On behalf of our Tribe, thank you for the opportunity to present the position of our Tribe on the Interior Department's Report on the Hoopa - Yurok Settlement Act.

We express our deepest gratitude to Chairman Inouye, Vice Chairman Campbell and the other Members of this Committee for your leadership in achieving passage of the landmark 1988 Hoopa-Yurok Settlement Act. Obviously, this would have never occurred without your valiant efforts and incisive analysis of the problems that had crippled our reservation and our tribal government for more than 20 years. We also acknowledge and appreciate the hard work of your dedicated staff, some of whom I suspect remember all the details of the issues addressed in 1988 and before.

The years since its passage have demonstrated the outstanding success of the Act. It resolved the complex issues in the long - standing *Jesse Short* case brought by thousands of individuals who sued for timber revenues from the Hoopa Valley Tribe's reservation. It provided a means for those individuals who qualified for Yurok tribal membership to establish a tribal government, adopt a tribal constitution and begin to exercise governmental responsibilities. The Act ended years of frustration and inability of unorganized Yurok individuals to act effectively to benefit the Yurok people. The Yurok Tribal Chair and Council Members could not stand before you today in that capacity without that Act.

The Act also vested rights in each of the tribes to their respective reservations. It established in each tribe clear legal ownership of its reservation. The Act also preserved the political integrity of the Hoopa Valley Tribe by confirming the enforceability of our tribal Constitution. The offer was derived from an agreement reached by the Hoopa Tribe and the Yurok Tribe. The Yurok Tribe chose to reject the offer provided in the Settlement Act which would have finally brought an end to litigation. The Act nevertheless authorized the Yurok Tribe to use properties such as the Yurok Experimental Forest where a tribal government center has been established and to obtain federal grants and contracts. The Act ultimately made it possible for the Yurok Tribe to join the ranks of tribes with self-governance compacts.

Most importantly, the Settlement Act called for an end to litigation. In its attempt to accomplish that goal, the Act provided benefits to the Hoopa Valley Tribe and the Yurok Tribe, on the condition that they waive all claims which they might assert against the United States as arising from the Act. The Act specifically preserved claims of the Yurok Indians and other individual Indian claims in the *Jesse Short* case. Damages to individual Indians were determined in 1993 in *Short* and payments made in 1996.

During the era of the *Short* case, in the 1970's and 80's, the Bureau of Indian Affairs placed timber revenues from the Hoopa Valley Indian Reservation into a special escrow fund. The Hoopa Tribe was allowed to use up to 30 percent of those revenues for governmental purposes. The Court of Claims made a number of decisions about this fund. It held that the individual plaintiffs had no claim to these funds and that they could not be used to pay for damages to the plaintiffs caused by the United States.[1] With the agreement of the Hoopa Tribe, Congress provided for use of this fund in the Settlement Act for the benefit of the Hoopa Tribe and the to-be-organized Yurok Tribe.

The Settlement Act was in fact exactly what its title implies. It was an offer to both the Hoopa Tribe and the to-be-organized Yurok Tribe to receive substantial monetary payments from this fund if they would forego suing the United States for any claims they might assert arose from passage of the Act. The Hoopa Tribe accepted that offer. The Yurok Tribe did not. The Yurok Tribe refused to waive any possible claims and instead chose to wage a long and expensive legal battle against the United States and also our Tribe.[2] That legal battle cost our Tribe more than $1 million dollars and years of anguish and uncertainty. Since 1988, we have defended the Act, which has been a great benefit to all Indians of the reservation and to both tribes.

Section 2(a) of the Act is the provision regarding use of the timber revenues which had been placed in escrow. The resolution our Tribe enacted, as required by that section, authorized the use of Hoopa escrow monies as payments to the Yurok Tribe, and to individual Yuroks, as provided in the Hoopa-Yurok Settlement Act.[3] All Yurok tribal members, and other Indians who

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[1] *Short IV*, 12 Cl. Ct. 36, 44 (1987).

[2] The Yurok Tribe's contention that their suit was not against the Hoopa Valley Tribe, but solely against the United States was rejected in court. The Court of Federal Claims ruled that their suit threatened the Hoopa Valley Tribe's exclusive rights within its Reservation and that the Hoopa Valley Tribe was properly a defendant.

[3] See, 53 Fed. Reg. 49361, 49362 (Dec. 7, 1988).

qualified for the Hoopa-Yurok Settlement Roll, executed claim waivers and received payments offered by the Act. But the Yurok Tribe did not waive, and so the Act, as applied, did not authorize payments to them. The Yurok Tribe is clearly prohibited by the Settlement Act from now receiving a portion of the Settlement Fund.[4] Further, our resolution does not authorize use of Hoopa escrow monies for purposes not provided in the Hoopa-Yurok Settlement Act. The monies were set forth as a settlement offer to end the effects of the litigation leading up to the Act. The Yurok Tribe rejected that offer. The Hoopa Valley Tribe's agreement that the Act provide an offer of Hoopa monies to the Yurok Tribe was withdrawn by operation of law.

Over 98 percent of the balance of the Hoopa-Yurok Settlement Fund comes from the Hoopa escrow accounts and is derived from logging on Hoopa Valley Indian Reservation lands. Since passage of the general timber statutes in 1910, federal law has provided for payment of proceeds from logging on tribal lands to the tribe whose reservation was logged. These timber statutes govern the Hoopa-Yurok Settlement Fund. The Settlement Act funds held in escrow were derived from timber cut on the Hoopa Valley Tribe's Reservation, timber that is only harvestable under the authority of the Secretary of the Interior pursuant to 25 U.S.C. § 407. That statute declares that "the proceeds of the sale shall be used as determined by the governing bodies of the Tribes concerned and approved by the Secretary." It is clear that the Hoopa Valley Tribe is the only governing body concerned with the sale of timber on unallotted trust land of the Hoopa Valley Reservation.

Congress was thorough in developing the Hoopa Yurok Settlement Act. The legislative history shows that Congress considered the history, aboriginal territory, demographics, and equity.[5] Likewise, the courts, after 40 years of litigation have heard and determined every

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[4] The Secretary of the Interior's Report to Congress states that, "it is the position of the Department that the Yurok Tribe did not meet the waiver conditions of the Act and is therefore not entitled to the benefits enumerated within the Act." Report at 3. Their only opportunity to receive a settlement payment expired when they lost in the courts.

[5] The Committee Report states: S. 2723, as reported by the Committee, "is a fair and equitable settlement of the dispute relating to the ownership and management of the Hoopa Valley Reservation . . . . The Committee intends to deal fairly with all the interests in the Reservation, and believes it has done so." S. Rep. 564, 100th Cong., 2d Sess. at 14 (1988). The Committee Report compared incomes from the Reservations and also noted:

> [T]he Committee is acting out of concern that the Hoopas have intended to live on the reservation and that their government be accorded sufficient resources to

possible issue to be raised in regard to this piece of legislation. *Yurok Tribe v. United States* is over and upheld by the United States Supreme Court. We ask Congress now to respect those prior decisions and move forward. It is clear that to the extent money remaining in the Settlement Fund came from the Hoopa Valley Tribe's reservation, the Hoopa Valley Tribe is the only tribe entitled to those proceeds. The Hoopa Valley Tribal Council would be remiss in our duties to our tribal members if we did not today seek the return of these timber revenues derived exclusively from the Hoopa Valley Indian Reservation.

The Interior Department's report to Congress pursuant to Section14(c) of the Act is disappointing. Interior's chief recommendation appears to be that no additional federal funding be provided, despite the fact that Section 14(c) specifically requests "any supplemental funding proposals necessary to implement" the Act.[6] Moreover, Interior recommends that it administer the Settlement Fund previously offered to the Yurok Tribe for the benefit of the Hoopa Valley and Yurok Tribes. We have long and hard experience with such administration in the past, prior to passage of the Settlement Act. As our other witness will testify, Interior lacks the legal authority and competence to carry out such responsibilities fairly.

Further, if it is found that the Yurok Tribe has suffered injustices, which we believe it has along with all other tribes in Northern California, and that the Federal Government wants to address these injustices and fulfill its current economic development and other needs, we adamantly argue that such needs should be addressed, but they must be addressed with funding appropriated by Congress. In 1988 Congress passed this bipartisan bill to end over 30 years of protracted litigation that resulted in judicial decisions which threatened the existence the Hoopa Valley Tribe, and would have had far reaching ramifications throughout Indian Country.

The Hoopa Tribe was not unfeeling in 1988 about the plight of the Yurok people due to past wrongful actions of the United States and due also to the Yuroks' decision to litigate rather than accept the Settlement Act's offer and move forward with effective tribal governance. We

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> provide the services necessary to sustain their habitation. Indeed, the majority of the Indians living on the combined reservation live on the "Square." The record shows that the Hoopa Valley Business Council is the only full-service local governmental organization on the combined reservation, and has been the major government service provider in the extremely isolated eastern half of Humboldt County.
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> *Id.* at 15.

[6] 25 U.S.C. § 1300i-11(c).

are not unfeeling now. The Hoopas, however, are not the cause of that plight and have been damaged by the United States' past actions and by the Yuroks' decision.

The Hoopa Tribe should not be forced to pay for such injustices and poor judgment. We want the Yurok Tribe to prosper as we want all tribes to prosper. The point, however, is clear - - the injustices resulted from Federal Government actions. The Federal Government should compensate. Using the Settlement Fund remainder for such purposes forces the Hoopa Tribe to be liable for the Federal Government's actions and the poor judgment of the Yurok Tribe's decision to litigate. This would be unacceptable.

Based on our experience in reaching agreement in 1988, we believe that the issues now before Congress should be resolved through considered thought and hard work over some period of time - - not necessarily years, but at least enough time to ground any new legislation on considered analysis and due diligence.

TESTIMONY OF JOSEPH JARNAGHAN
COUNCILMAN, HOOPA VALLEY TRIBE OF CALIFORNIA
BEFORE THE
SENATE INDIAN AFFAIRS COMMITTEE
August 1, 2002

My name is Joseph Jarnaghan and I am a member of the Hoopa Valley Tribal Council. Our Tribe has lived on and governed its affairs in the Hoopa Valley for over 10,000 years. I testify as a tribal official elected in a democratic process by the tribal membership, and expressing the views of our people.

On behalf of the Hoopa Valley Tribe, I want to thank this Committee for the opportunity to be here today and to testify in this oversight hearing. I want to tell you why the return of the Hoopa escrow monies to the Hoopa Valley Tribe is particularly appropriate in this case, now that the payment provisions of the Hoopa-Yurok Settlement Act have been exhausted.

My first slide is a map of roads built on the Hoopa Valley Indian Reservation beginning in the 1940s. There are over 550 linear miles of road on the Reservation. These roads are a major source of sediment production and contamination of our waters because the Bureau of Indian Affairs' maintenance of these roads was grossly inadequate, virtually nonexistent, when it clear-cut timber from our reservation. The Bureau was more interested in getting the trees down and to sale rather than forest resource management and rehabilitation. Now, the Hoopa Valley Tribe spends approximately $200,000 to $400,000 per year from tribal revenue to fix this road system. Simply put, the BIA road construction standards employed in harvesting timber from our Reservation created a huge ongoing problem. The roads erosion is devastating to fisheries, water quality and riparian organisms. The Tribe continues to rehabilitate old logging roads and landings that are major contributors to sediment production and which thereby affect fish habitat and water quality.

The BIA cut down approximately 33,000 acres of tribal timber before the Hoopa-Yurok Settlement Act was passed. Most of the remainder of the Reservation cannot be logged. As the photos illustrate, clear cutting management techniques were practiced by the BIA. This type of harvesting disregarded cultural resources and created large areas that the Tribe must now rehabilitate through timber stand improvement projects. Even ten years after harvesting, clear cuts have led to invasion by brush species, understocked timber regrowth, and unhealthy conditions susceptible to fire or insects. Timber stand improvement costs the Tribe over $500

per acre to treat. Thin and release programs conducted by hand produce substantial improvements in growth rates.

Our Reservation has also been substantially damaged by forest fires. The Megram fire of 1999 resulted in approximately 4,500 acres being destroyed through fire suppression efforts on the Reservation. About half of the damage was the result of "back burn" operations. The rest of the damage occurred through creation of a "contingency fire line." The fire line was up to 400 feet wide and approximately 11 miles long.

The Hoopa Valley Tribe must not be subjected to the double hit of losing both the Hoopa escrow monies derived from timbering activities on our Reservation and having to finance the restoration and rehabilitation costs resulting from the BIA's poor timber harvest projects and forest fires. The potential application of Hoopa escrow funds to settlement costs never came to pass, instead we had to incur tremendous defense costs to protect our Reservation. The Hoopa escrow funds from our Reservation should be restored to meet the needs of our people.

TESTIMONY OF THOMAS P. SCHLOSSER
COUNSEL FOR HOOPA VALLEY TRIBE OF CALIFORNIA
BEFORE THE
SENATE INDIAN AFFAIRS COMMITTEE
August 1, 2002

My name is Thomas P. Schlosser and I am an attorney for the Hoopa Valley Tribe. I thank the Committee for the privilege of presenting testimony concerning the report to Congress submitted by the Secretary of the Interior in March 2002, pursuant to ' 14(c) of Pub. L. 100-580, as amended, the Hoopa-Yurok Settlement Act.

I have been honored to serve as litigation counsel to the Hoopa Valley Tribe for over 20 years and, during that time, have represented the Tribe in the hopelessly misnamed case of *Short v. United States*, a suit still pending after 39 years. Along with numerous lawyers representing various sides of the controversy, I participated in the proceedings of the 100th Congress and this Committee that fashioned the landmark Hoopa-Yurok Settlement Act.

1. The Secretary=s Report Threatens a Return to Pre-1988 Conditions.

The Settlement Act was necessitated by complex litigation between the United States, the Hoopa Valley Tribe, and a large number of individual Indians, most, but not all of whom were of Yurok decent. Those who do not recall the applicable court rulings or the conditions from which the Settlement Act emerged will not fully appreciate the strengths and weaknesses of the Secretary=s ' 14(c) report. Thus, the Secretary=s report mistakes the Settlement Act as having been enacted Awith the primary objective of providing finality and clarity to the contested boundary issue,@ and concludes with the recommendation that the Settlement Fund Awould be administered for the mutual benefit of both the Hoopa Valley and Yurok Tribes.@ The Secretary=s report is not all wrong but boundary clarification was only an aspect of the Hoopa-Yurok Settlement Act. If administration of the Fund for the joint benefit of the tribes is the outcome of this process we will have returned to the difficult era between 1974 and 1988 that required passage of the Settlement Act in the first place. As George Santayana said, Athose who cannot remember the past are condemned to repeat it.@ The error of establishing a AReservation-wide@ account is clear from comparing §1(b)(1)(F) with *Puzz v. United States*, 1988 WL 188462, *9 (N.D. Cal. 1988).

Under the Settlement Act there are potential benefits currently unavailable to the Yurok and Hoopa Valley Tribes because of the Yurok Tribe=s decision to reject the conditions of the Act. The Hoopa-Yurok Settlement Fund is only one of the undistributed assets, and probably not the most valuable one, by comparison to the hundreds of acres of Six Rivers National Forest land within and near the Yurok Reservation, the money appropriated for Yurok land acquisition, the Yurok self-sufficiency plan which was never submitted or funded, and the statutory authority to acquire land in trust for the Yurok Tribe. Thus. a second shortcoming of the Secretary=s ' 14(c) report is that it focuses myopically on the Hoopa-Yurok Settlement Fund. Nevertheless, because the Settlement Fund is the only asset in which the Hoopa Valley Tribe has a continuing interest, my testimony will focus on it.

2. The *Short* Case Was an Aberration From Federal Indian Law.

The Settlement Act brought to an end a long detour from a correct decision of the Interior Department on February 5, 1958, the Deputy Solicitor=s memorandum regarding rights of the Indians in the Hoopa Valley Reservation, California. The Solicitor=s opinion found that a group of Indians had been politically recognized as the Hoopa Tribe by the United States in 1851 and were the beneficiaries of administrative actions in 1864 and an Executive Order in 1876 setting aside the Hoopa Square for the benefit of any Indians who were then occupying the area and those who availed themselves of the opportunity for settlement therein. (Those Indians were, as this Committee found in 1988, primarily Hoopa Indians, but the Hoopa Valley Tribe included other individuals who joined the community and ultimately became enrolled tribal members.) The Solicitor found that Commissioner of Indian Affairs had been correct in recognizing tribal title to the communal lands in the Hoopa Square to be in the Hoopa Valley Tribe. The federal government=s action a generation later, in 1891, to append to the Hoopa Valley Reservation the old Klamath River Reservation and the intermediate Connecting Strip, as an aid to the administration of those areas, could not have had any effect on the rights of Indians to property within the Reservation because Hoopa Valley rights attached in 1864 and Klamath River Reservation rights attached in 1855.

Unfortunately for all concerned, the Court of Claims differed with the Interior Department=s 1958 view in *Short v. United States*, 202 Ct. Cl. 870 (1973), *cert. denied*, 416 U.S. 961 (1974) (A*Short I*@). *Short I* ruled that the Secretary violated trust duties to non-Hoopa AIndians of the Reservation,@ when he excluded them from tribal per capita payments. Nearly 4,000 individuals were plaintiffs in *Short*, and *Short I* found only 22 AIndians of the Reservation@ and left a very difficult job (which is still underway) for the courts to perform determining which other AIndians of the Reservation@ and their heirs were entitled to damages from Treasury for breach of trust. *Short I* precipitated a series of crises and related lawsuits that jeopardized public health and welfare and nearly destroyed tribal government before Congress stepped in with the Hoopa-Yurok Settlement Act.

The Settlement Act originated in the House as H.R. 4469. The Interior and Insular Affairs Committee and the Judiciary Committee of the House conducted hearings on that bill, in addition to the two hearings conducted by this Committee. As you may recall, at least three law firms represented factions of Yurok tribal members at those hearings, including Faulkner & Wunsch, Heller Ehrman White & McAuliffe, and Jacobsen, Jewitt & Theirolf. Many legal issues were argued but, with this Committee=s guidance, the warring factions came together on a settlement package to lay before all parties.

At the request of the House, the American Law Division of the Congressional Research Service prepared an analysis of H.R. 4469 which pointed out that because of the unique statutory and litigation background, a remote possibility existed that litigation concerning H.R. 4469 could create a new federal Indian law precedent, holding that if the Reservation was established for nontribal Indians, Indians of the Reservation would have a vested interest in Reservation property. The courts did not ultimately reach that conclusion, but it is useful to recall that issue now in order to realize how the Secretary=s ' 14(c) report oversimplifies the Settlement Act as merely a division of assets between the Hoopa Valley and Yurok Tribes. Actually, the Settlement Act initially divided the Hoopa-Yurok Settlement Fund between the Hoopa Valley Tribe and the Yurok Tribe, subject to surrender of claims, and then added appropriated funds to finance lump-sum payments to Indians who did not elect to join the Yurok Tribe or the Hoopa Valley Tribe. Because of the long history of Yurok *Short* plaintiff opposition to organization of the Yurok Tribe and the wide geographic dispersal of Yurok Indians it was simply unknown how many persons on the Hoopa-Yurok Settlement Roll would elect Yurok tribal membership.

3. The Settlement Act Nullified the *Short* Rulings.

This Committee emphasized that the Settlement Act should not be considered an individualization of tribal communal assets and that the solutions in the Settlement Act sprang from a series of judicial decisions that are unique in recognizing individual interests that conflict with general federal policies and laws favoring recognition and protection of tribal property rights and tribal governance of Indian reservations. The Committee concluded: Athe intent of this legislation is to bring the Hoopa Valley Tribe and the Yurok Tribe within the mainstream of federal Indian law.@ S. Rep. 564, 100th Cong., 2d Sess. (1988) at 2.

The Settlement Act preserved the money judgments won by qualified plaintiffs in the *Short* case, and they ultimately recovered about $25,000 each from the United States Treasury in 1996. They also received the payments provided by ' 6 of the Act. But this Committee noted that while it did not believe Athat this legislation, as a prospective settlement of this dispute, is in any way in conflict with the law of the case in the *Short* cases, to the extent there is such a conflict, it is intended that this legislation will govern.@ *Id.* at 19.

The interplay of the Settlement Act and the *Short* case is important to allocation of the Settlement Fund now for this reason: is indisputable that over 98 percent of the funds remaining in the Hoopa-Yurok Settlement Fund originated in trees cut from the Hoopa Square, now the Hoopa Valley Reservation. That proportion of the funds belongs to the Hoopa Valley Tribe.

4. The Hoopa Valley Tribe Has a Right to its Timber Proceeds.

As an historical matter, Indian tribes did not generally have a right to logging proceeds until Congress, by the Act of June 25, 1910, authorized the sale of timber on unallotted lands of any Indian reservation and provided that Athe proceeds from such sales shall be used for the benefit of the Indians of the reservation in such manner as he may direct.@ *See* 25 U.S.C. ' 407. In 1964, Congress changed the identity of the beneficiaries of proceeds in the statute from AIndians of the reservation@ to AIndians who are members of the tribe or tribes concerned.@ As the Interior Department testified in support of that amendment, this was a technical correction because the term AIndians of the reservation@ did not describe anybody and actually members of the relevant tribe shared in the proceeds of the sale of tribal property. However, in *Short v. United States*, 719 F.2d 1133, 1136 (Fed. Cir. 1983), *cert. denied*, 467 U.S. 1256 (1984) (A*Short III*@), the court rejected that explanation and held that ACongress, when it used the term >tribe= in this instance, meant only the general Indian groups communally concerned with the proceedsBnot an officially organized or recognized Indian tribeBand that the qualified plaintiffs fall into the group intended by Congress.@ Thus, another important portion of the Settlement Act was the correction to the *Short*-caused distortion of 25 U.S.C. ' 407 to provide that Athe proceeds of the sale shall be usedB(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary. . . .@ This amendment restored tribal control over enrollment and use of timber proceeds.

The *Short* case, as explained in some detail in this Committee=s report, found that no vested Indian rights existed at the time the Hoopa Valley Reservation was extended to include the Connecting Strip and Klamath River Reservation in 1891, and that therefore all Indians of the Reservation, as extended, had to be included in per capita distributions from Reservation revenues. In the litigation that challenged the Settlement Act as a taking of plaintiffs= vested rights, the Yurok Tribe, its members, and the Karuk Tribe of California logically presumed both the propriety of President Benjamin Harrison=s 1891 Executive Order and the correctness of the Court of Claims=s decision in *Short I*. In other words, those plaintiffs assumed that President Harrison acted lawfully in expanding the Hoopa Valley Reservation to include the Addition, and that the effect of 1891 Executive Order was to give all Indians having an appropriate connection to the Reservation as so expanded an equal claim to all of the expanded Reservation=s income. If either of those propositions was incorrect, then the Settlement Act could not be thought to deprive plaintiffs of anything to which they were ever entitled. However, those propositions depended in turn on the assumption that the 1876 Executive Order did not confer property rights

on the inhabitants of the Hoopa Square, as the Reservation was then defined, since if such rights were conferred they would have been taken by the 1891 Executive Order, at least as construed in *Short I*.

Here we are again hearing the Yurok Tribe contend that they have a right to receive timber proceeds from the Hoopa Valley Square. The courts have correctly rejected this, not once, but time after time in *Short IV*, *Short VI*, and *Karuk Tribe of California*. In *Short IV*, 12 Cl. Ct. 36, 44 (1987), the Court held that the escrow fund did not belong to *Short* plaintiffs but was held in the Treasury subject to the discretion of the Secretary of the Interior. That ruling was reaffirmed in *Short VI*, 28 Fed. Cl. 590, 591, 593 (1993), where the Court recalled that prior to 1987 the *Short* plaintiffs claimed a right to the entire escrow fund but that claim was rejected in *Short IV* and remained the law of the case. The federal courts rejected plaintiffs continued effort to capitalize on *Short*. *Karuk Tribe of California, et al. v. United States, et al.*, 209 F.3d 1366, 1372 (Fed. Cir. 2000), *cert. denied*, 523 U.S. 941 (2001).

Without the theories of the *Short* case, the Yurok Tribe has no claim to portions of the Settlement Fund derived from Hoopa escrow funds and timber on the Square. As the Court ruled in *Karuk Tribe of California*, AThis litigation is the latest attempt by plaintiffs to receive a share of the revenues from timber grown on the Square. . . . [but] the Settlement Act nullified the *Short* rulings by establishing a new Hoopa Valley Reservation. . . . A necessary effect of the Settlement Act was thus to assure payment of the timber revenues from the Square exclusively to the ›Hoopa Valley Tribe.=@ 209 F.3d at 1372. It was the purpose of the Settlement Act to return the Yurok and Hoopa Valley Tribes to the mainstream of federal Indian law. The twisted logic of the *Short* case can have no further effect on these tribes. Under mainstream law, the proceeds of Indian timber sales must go to the tribe whose trees were cut.